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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,546	07/12/2000	CLAUDE CHAPPERT	15675.P322	7116

7590

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EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT PAPER NUMBER

1756

DATE MAILED: 07/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/600,546

Applicant(s)

CHAPPERT ET AL.

Examiner

Martin J Angebranndt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002 and 12 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1       The response provided by the applicant has been read and given careful consideration. Responses to the arguments of the applicant are presented after the first rejection to which they are directed. The rejections based at least in part upon Steckl et al. "Review of Focused ion beam mixing for the fabrication of GaAs based optoelectronic devices", J. Vac. Sci. Technol. B, Vol 13(6) pp 2570-2575 (11/12-1995), Jung et al. "Atomic Transport by Ion Beam Mixing in the Radiation Enhanced Diffusion Region", Mat. Res. Soc. Symp. Proc. Vol. 354 pp. 21-26 (1995), Kanayama et al., "Fine Pattern Definition with Atomic Intermixing Induced by Focused Ion Beam and Its Application to X-ray Mask Fabrication", J. Vac Sci. Technol. B, Vol 9(2) pp. 296-301 (4/1991) or Amaral et al., "Very Thin Fe/Ni modulation multilayer Films Under Ion Bombardment", J. Appl. Phys., Vol. 81(8) pp. 4773-4775 (04/1997) are withdrawn based upon *the amendments to the claims which preclude the complete mixing of either of the layers*. A number of the rejections are withdrawn based upon the incorporation of this language into the claims. These rejections are reinstated when the applicant deletes the new matter as discussed below. Response to the arguments direct at the art rejections are moot considering the effects of the amendments. The examiner notes that the disclosure does not seem to disclose the selective mixing for depths of only a few atomic planes for each of the layers when then layers are greater than a few atomic layers in thickness.

2       The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3       Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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It is not clear from the language “in one or more regions having sizes of the order of 1 micrometer or less are irradiated” if it embraces non-selective (i.e. flood, unmasked) irradiation of the entire surface as long as the surface is one micron in size or larger, successive irradiation of areas 1 micrometer or less in size to include the entire surface and/or selective radiation on only certain areas of the surface being 1 micrometer or less in size and leaving other areas unirradiated.

The claims currently may be read to embrace simultaneous irradiation of one or **more** regions having sizes of 1 micron (ie flood exposure) or the serial irradiation of at least one region, with each region having a size of 1 micron. The applicant should clarify the language.

The language “a multi-layer material composed of thin layers” (lines 1 and 2 of claim 1) renders the language “...the material is a thin-layers material comprising buried layers deposited on a substrate” (lines 3 and 4) somewhat redundant. The applicant may delete the latter language and add the recitation of “deposited on a substrate” to the language of lines 1-2.

4 The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5 Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The language “without overall mixing of the different layers of the multi-layer material” does not have support in the specification as filed. This language added in the amendments of

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6/17/2002 and 4/29/2002 is unsupported by the specification. The specification seems to be silent on the resultant compositions of the bulk phases of the layers. This language must be removed in the next amendment if the applicant cannot find support for this in the specification as originally filed. **The examiner notes that as this is a ballistic effect (impact phenomena, it may not be possible to effect only the interface without alloying the entire thickness of the topmost layer.** There is also no basis for 2-3 atomic planes.

Reference to 1-2 atomic planes for the entire thickness of the films appear on page 9 at lines 19-26. Reference to 2.25, approximately 5 and 4 atomic planes for the entire thickness appear on page 10.

A number of the rejections are withdrawn based upon the incorporation of this language into the claims. These rejections are reinstated when the applicant deletes the new matter.

6 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J Angebranndt whose telephone number is 703-308-4397.

The examiner can normally be reached on Mondays-Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 703-308-2464. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Martin J Angebranndt  
Primary Examiner  
Art Unit 1756

July 8, 2002